

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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IN RE:

NATALIE SMITH,

Case No.:

3-13-cv-476-RCJ
ORDER FOR CIVIL CONTEMPT

The court having observed contempt or contemptuous conduct in the Judge's own presence, which conduct consisted of violation of the Courts existing orders prohibiting pictures or cameras in the courtroom and the actual taking of pictures of the Judge, Jurors and parties, the Court having given immediate notice and opportunity to explain the conduct, the Court herein enters judgment for civil contempt in the Courts presence, as more fully explained in the transcript attached;

Pursuant to LR IA 9-1(c):

Cameras, recording, reproducing and transmitting equipment, which are not part of a wireless communication device as defined in (b) above, are prohibited in all United States Courthouses in this District unless otherwise authorized. Cameras, recording, reproducing and transmitting equipment, which are part of a wireless communication device, shall not be used in any courtroom or hearing room without the express approval of the presiding judge or officer. Failure to abide by this Rule may result in the forfeiture of any such device.

IT IS HEREBY ORDERED that the telephone used by the above person in taking pictures of the Judge, Jury and parties during a trial proceeding and in violation of existing court orders, such telephone and camera is hereby forfeited to the United States.

IT IS SO ORDERED.

DATED: This *6th* day of September, 2013.

R. Jones
ROBERT C. JONES
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
BEFORE THE HONORABLE ROBERT C. JONES, CHIEF DISTRICT JUDGE
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DONALD YORK EVANS, et al., : contempt case
: 3-13-cv-476-RCJ
Plaintiffs, : No. 3:08-CV-353-RCJ-VPC
-vs- : August 27, 2013
HOWARD SKOLNIK, et al., : Reno, Nevada
Defendants. :

TRANSCRIPT OF CONTEMPT PROCEEDINGS

APPEARANCES:

FOR THE PLAINTIFFS:

CAL J. POTTER, III, and
TRAVIS N. BARRICK
Attorneys at Law
Las Vegas, Nevada

FOR THE DEFENDANTS:

KAITLYN MILLER and KELLY S. WERTH
Deputies Attorney General
Carson City, Nevada

Reported by:

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1 RENO, NEVADA, TUESDAY, AUGUST 27, 2013, 10:40 A.M.

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4 (The jury is not present.)

5 THE COURT: I've asked the court security
6 officer to ask the gentle lady, please, to be brought back
7 into the courtroom, please.

8 Would you approach, ma'am? Come up.

9 The court security officer tells me that you were
10 taking picture in the courtroom, ma'am?

11 MS. SMITH: And I deleted them.

12 THE COURT: There is a court order, ma'am, that
13 prohibits anybody except -- upon exception, of course, I allow
14 attorneys to have their cell phones and electronic devices,
15 but nobody else. There's a court order in existence that bars
16 people from using cell phones or recording or operating them
17 in court in session.

18 But you took pictures. Who did you take picture of,
19 ma'am?

20 MS. SMITH: The plaintiffs, the defendants, just
21 the courtroom.

22 THE COURT: All right.

23 MS. SMITH: I deleted them all.

24 THE COURT: Is there a reason why as a contempt
25 sanction I should not take the telephone, ma'am?

1 MS. SMITH: All I can say is I didn't know.

2 THE COURT: Okay.

3 MS. SMITH: I apologize. It won't happen again.

4 THE COURT: Thank you for the apology.

5 Where is the telephone?

6 MS. SMITH: In my purse.

7 THE COURT: Hand it to Madam Clerk, please.

8 Thank you so much.

9 And your name for the record?

10 MS. SMITH: Natalie Smith.

11 THE COURT: Okay. And your connection to this
12 case?

13 MS. SMITH: I'm friends with John Witherow.

14 THE COURT: Okay. And as a sanction for
15 contempt, ma'am, I'm taking the telephone. You will forfeit
16 it, and it is for sanction for contempt in my presence.

17 Thank you.

18 MS. SMITH: Okay.

19 (A recess was taken.)

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1 RENO, NEVADA, WEDNESDAY, AUGUST 28, 2013, 9:08 A.M.

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4 (The jury is not present.)

5 THE COURT: Thank you. Please be seated.

6 Appearances of counsel, please.

7 MR. POTTER: Cal Potter and Travis Barrick on
8 behalf of Mr. John Witherow who is also present, your Honor.

9 THE COURT: Thank you.

10 MS. MILLER: Kaitlyn Miller and Kelly Werth on
11 behalf of Ingrid Connally and Lea Baker who are present.

12 THE COURT: Thank you.

13 I have to deal with a little side matter.

14 As all of you, at least counsel know, there is a
15 general order that's been in existence for quite some time
16 that prohibits people, anybody, coming in, coming into the
17 courtroom and operating cell phones, taking pictures or making
18 recordings. There's an obvious security reason for that
19 long-standing rule.

20 Yesterday I had to deal with a friend of
21 Mr. Witherow, apparently, who was taking pictures both the
22 prior day and yesterday, and, of course, it raises an obvious
23 concern that the pictures may be of the jury, the judge or
24 staff, and may even be part of an attempt to intimidate the
25 same.

1 It was for that reason that I had to take immediate
2 contempt sanction action against the gentle lady who
3 consequently I had to forfeit her phone because she had, in
4 fact, taken such pictures.

5 Now, it was brought to my attention this morning
6 that Mr. Witherow attempted to bring a tape recorder into the
7 proceedings. I don't know for what purpose, and I really
8 don't want to get into it or know for what purpose.

9 But I take the occasion just briefly to remind
10 Mr. Witherow that doing so would be a contempt and would face
11 a sanction of more than simply removal or forfeiture of the
12 device, it would face a jailing sanction. So I want
13 Mr. Witherow to understand that.

14 There's a reason for that order, sir. We have a
15 court reporter, official court reporter, who works for all of
16 the judges. Her transcript is the official transcript, and if
17 counsel want to disagree with the transcript, they know how to
18 do that.

19 I can't permit recording of jurors' voices, my
20 voice, the witnesses' voices, nor can I allow pictures,
21 especially in the courtroom, of the jury or judge or staff or
22 opposing counsel.

23 That's the reason for the rule, sir, and the purpose
24 for just taking a few minutes is to warn you that there are
25 serious contempt sanctions, including jailing.

1 So hopefully that's enough and that will resolve the
2 issue.

3 MR. POTTER: Your Honor, if I could just -- he
4 wasn't recording any proceedings.

5 THE COURT: Good.

6 MR. POTTER: I talked with the marshals or the
7 people downstairs this morning when I came in, they had
8 already been before me.

9 It dealt with the tapes that Ginger Howard had
10 talked about, and it was just in trying to inform us for what
11 it was.

12 THE COURT: Terrific.

13 MR. POTTER: I've explained the discovery issues
14 that were involved. Mr. Evans' office has been closed for a
15 number of years --

16 THE COURT: Okay.

17 MR. POTTER: -- and they finally came with some
18 of that discovery that had been sought at one point in time,
19 and I explained we can't bring it in. But there was no
20 recording of any proceedings.

21 THE COURT: Right. Now, counsel know that
22 clearly you're exempt. You are authorized to bring in and
23 operate, hopefully in the silent mode, cell phones or
24 communication devices or iPads because counsel are subject to
25 the ethical standards and rules.

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